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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IVORY GHEE,)
)
Plaintiff,)
)
v.) No. 05 C 2275
)
LUSTER PRODUCTS, et al.,)
)
Defendants.)

MEMORANDUM ORDER

Luster Products ("Luster"), Roosevelt Lester and Elizabeth Jenkins have filed their Answer and Affirmative Defenses ("ADs") to the employment discrimination action brought against them by Luster's ex-employee Ivory Ghee ("Ghee"). This memorandum order is issued sua sponte to address two problematic items in that responsive pleading.

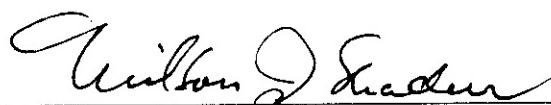
To begin with, Answer ¶2 does not conform to the disclaimer requirements clearly established by Fed. R. Civ. P. ("Rule") 8(b)'s second sentence--see App. ¶1 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001). That paragraph of the Answer is accordingly stricken, with defendants being given the option (1) to file a proper Amended Answer ¶2 on or before June 20, 2005, or (2) in the absence of such a filing, to be deemed to have admitted the allegations of Complaint ¶2 (which, given the nature of those allegations, would appear the simpler and nonprejudicial course of action).

As for the ADs, Rule 8(c) and the caselaw applying it make

clear that any proper AD must accept a complaint's allegations as gospel, but may then explain some basis for nonliability or lesser liability--see App. ¶5 to State Farm. In those terms:

1. AD 2 is directly at odds with the allegations of Complaint ¶14 that the alleged discrimination against Ghee was knowing, intentional and wilful. Hence AD 2 is stricken without leave to replead.

2. AD 4 is insufficient to satisfy the federal concept of notice pleading, for it informs neither Ghee nor this Court of just what claims by Ghee are assertedly barred by limitations. AD 4 is also stricken, but this time with leave being granted to file a proper amended AD 4 on or before June 20, 2005.



Milton I. Shadur
Senior United States District Judge

Date: June 8, 2005